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Attorneys for Plaintiff

Harmeet K. Dhillon

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

HARMEET K. DHILLON,

Plaintiff,

v.

DOE 1, et al.,

Defendants.

Case No. 13-CV-01465 SI

**DECLARATION OF HARMEET K.  
DHILLON IN SUPPORT OF  
OPPOSITION TO DEFENDANT DOE  
1's MOTION FOR JUDGMENT ON  
THE PLEADINGS PURSUANT TO  
FRCP 12(C) OR FOR SUMMARY  
JUDGMENT**

**Hearing Date:** February 28, 2014

**Hearing Time:** 9:00 a.m.

**Courtroom 10, 19<sup>th</sup> Floor**

**Hon. Susan Illston**

I, Harmeet K. Dhillon, declare:

1. I am the Plaintiff in the above-captioned action. I am an attorney duly admitted to practice before all courts of the State of California. I have personal knowledge of the matter set forth herein, and if called as a witness could and would competently testify thereto. As to those matter stated on information and belief, I believe them to be true.

Declaration of Harmeet K. Dhillon

**DHILLON & SMITH LLP**

1           2.       In March 2008, I commissioned photographer Colin Hussey to take several of  
2 photographs for the purpose of identifying myself in connection with my candidacy for Member  
3 of the State Assembly, District 13 (the “2008 Photographs”). Among the 2008 Photographs was  
4 the Headshot Photograph that is the work at issue in this case.

5           3.       I am the sole owner of the Headshot Photograph and the copyright therein, and  
6 have been since the time it was created. Mr. Hussey has transferred all rights, title and interest in  
7 the Headshot Photograph to me. The Headshot Photograph is registered with the U.S. Copyright  
8 Office, and I am informed and believe that the Registration Number is VA0001859929.

9           4.       I have used the Headshot Photograph for the purpose of identifying myself to the  
10 public, including in connection with my political activities and in professional marketing efforts  
11 relating to my law firm, beginning in or around June 2008. Since that time, and until the  
12 infringing conduct that is the subject of this lawsuit, I have given authorization to a select and  
13 restricted few individuals and entities to use the Headshot Photograph, upon their specific  
14 request for my permission. At all times, I have carefully restricted the individuals and entities to  
15 whom I have granted authorization to use the Headshot Photograph.

16           5.       Prior to Doe 1’s use of the Headshot Photograph on the mungergames.net blog, I  
17 was frequently approached by individuals and entities for authorization to use the Headshot  
18 Photograph, and I selectively granted my authorization on a case-by-case basis.

19           6.       Since the unauthorized and negative use of my Headshot Photograph on  
20 mungergames.net in February 2013, I have not received any interest from third parties in using  
21 the Headshot Photograph.

22           7.       Since the unauthorized and negative use of my Headshot Photograph on  
23 mungergames.net in February 2013, I have not made use of the Headshot Photograph, out of  
24 concern that use of a photograph of myself that has been tainted with a prior negative association  
25 will harm my public image.  
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Declaration of Harmeet K. Dhillon

**DHILLON & SMITH LLP**

1           8.       On February 12, 2013, I first learned that an article entitled “Meet Harmeet” had  
2 been published on the website www.MungerGames.net (“MungerGames”), which featured the  
3 Headshot Photograph at the top of the article. The caption below the Headshot Photograph stated  
4 “Harmeet Dhillon,” and the photograph was not altered in any way. The “Meet Harmeet” article  
5 identified me as the chairman of the San Francisco Republican Party, and then-candidate for  
6 CRP Vice Chairman. The article was posted anonymously.

7           9.       I have never given permission or authorization for use, copying, or distribution of  
8 the Headshot Photograph in the “Meet Harmeet” article or on the MungerGames website.

9           10.      Upon learning of the “Meet Harmeet” article, I promptly took all reasonable steps  
10 to discover the identity of the individual(s) responsible for its posting. According to information  
11 obtained on www.whois.com, a query and response protocol that allows users to query databases  
12 that store the registered users or assignees of an Internet research, the domain name  
13 Mungergames.net is hosted by the web hosting provider and domain name registrar, DreamHost  
14 (“DreamHost”), owned by New Dream Network, LLC.

15          11.      On February 13, 2013, I emailed DreamHost to alert it of the infringement of my  
16 copyrighted material and demanded to be immediately put in contact with the owner of the  
17 Mungergames.net website in order to get the copyrighted material taken down. DreamHost  
18 responded with an email instructing me to submit a formal notification of claimed infringement,  
19 pursuant to the Digital Millennium Copyright Act, 17 U.S.C.A. section 512(c)(3)(A)(i-vi).

20          12.      I complied with DreamHost’s request and submitted a formal notification of  
21 infringement pursuant to that statute on February 15, 2013. However, Dreamhost ultimately  
22 declined to disclose to me the account information for owner for the Mungergames.net domain  
23 name, and/or the names, addresses, telephone numbers and e-mail addresses of the individual(s)  
24 responsible for the posting of the copyrighted material on the “Meet Harmeet” article.

25          13.      Following my sending of the February 15, 2013 email to DreamHost, the  
26 Headshot Photograph was removed from the “Meet Harmeet” article. The “Meet Harmeet”

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Declaration of Harmeet K. Dhillon

**DHILLON & SMITH LLP**

1 article remains posted on Mungergames.net, but my name now appears where the Headshot  
2 Photograph once appeared.

3 I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct and that this declaration was executed on the date set forth below in  
5 San Francisco, California.

6 Date: January 28, 2014

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10 Harmeet K. Dhillon  
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